



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Confirmation No. 3283

MADAUS et al.

Allowed: January 12, 2010

Serial No. 10/531,476

Atty Ref.: PTB-4750-27

Filed: April 15, 2005

TC/A.U.: 3735

For: METHOD AND DEVICE FOR CARRYING
OUT A SIGNAL-PROCESSING VIEWING OF A
MEASUREMENT SIGNAL THAT IS CORRELATED
TO THE RESPIRATORY ACTIVITY OF AN
INDIVIDUAL

Examiner: Karen Toth

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April 12, 2010

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

REQUEST FOR RETURN OF INITIALED FORM PTO/SB/08A


In response to the Communication received from the Examiner dated March 12, 2010, Applicant once again respectfully requests that the Examiner consider the translation of the Japanese Office Action originally cited on Applicant's IDS dated October 13, 2009. This information was properly submitted on October 13, 2009, along with the appropriate certification and authorization to charge any necessary fees (see pages 3 and 6 of the IDS). As MPEP 609 explains, "Once the minimum requirements of 37 CFR 1.97 and 37 CFR 1.98 are met, the examiner has an obligation to consider the information. There is no requirement that the information must be prior art references in order to be considered by the examiner" (emphasis added). Thus, the observation that the translation of the Japanese Office Action is lacking a date is irrelevant to whether this information is to be considered. See also Box 5 on Applicant's IDS form, indicating that the documents were cited in a corresponding foreign application, and "an English language version of the foreign search report or official action is attached for the

Examiner's information." Furthermore, Applicant need not make any new certification or submit duplicate payment because Applicant's IDS was properly before the Examiner as of October 13, 2009. Again, see pages 3 and 6 of the IDS. The Japanese Office Action should have been considered at that time, and Applicant's resubmission of the earlier (and properly) filed is to correct this apparent oversight. In view of the above, Applicant once again respectfully requests that the Examiner initial next to the Japanese Office Action to indicate that it has been considered.

Respectfully submitted,

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By: _____


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